

REMARKS

In the Office Action, the Examiner has rejected claims 1, 9, 10, and 21 for being anticipated by Bernstein. (U.S. Patent No. 5,037,088). The Examiner has also rejected claims 2-5, 8, 12-16, 18, 20 and 25 for being unpatentable over Bernstein (U.S. Patent No. 5,244,446) in view of various cited references. Also, because they are not specifically indicated as being allowed, Applicant has considered that claims 22-24 have also been rejected for being unpatentable. Further, the Examiner has objected to claims 6-7, 17 and 19 as being dependent upon a rejected base claim. The Examiner has indicated, however, that there is allowable subject matter in original claims 6-7, 17 and 19 if rewritten in independent form including all pertinent intervening limitations. In addition, claim 26 has been allowed.

In response to the Office Action, independent claim 1 has been amended to incorporate the limitations of claims 2, 3, 6 and 7, to thereby present a claim that the Examiner has indicated would be allowable. Furthermore, Applicant has amended independent claim 13 by incorporating the limitations of claims 16, 17 and 19, to once again present a claim that the Examiner has indicated would be allowable. Accordingly, claims 2, 3, 6, 7, 16, 17, 19, as well as claims 21-25, have been canceled. In addition, claims 4, 5, and 8 have been amended to properly depend from claim 1. No new matter has been added. Claims 1, 4-5, 8-15, 18, 20 and 26 remain pending.

The claims have been amended to improve the readability of the claims, to more clearly define the structure, and to point out the features which distinguish this invention over the cited art.

Rejection of Claims under 35 U.S.C. § 102 (b)

Claims 1, 9, 10 and 21 have been rejected under 35 U.S.C. § 102 (b) for being anticipated by Bernstein (U.S. Patent No. 5,037,088). As indicated above, independent claim 1 has been amended to incorporate the limitations set forth in claims 2, 3, 6 and 7, to thereby present a claim the Examiner has indicated would be allowable. Dependent claims 9 and 10 depend from the amended independent claim 1, and should therefore also be allowable. Independent claim 21 has been canceled.

For the reasons set forth above, Applicant believes the basis for rejecting claims under 35 U.S.C. § 102 (b) for being anticipated by Bernstein has been overcome and the rejections should be withdrawn.

Rejection of Claims under 35 U.S.C. § 103 (a)

Claims 2-5, 8, 13-16 and 20 (as well as the unspecified claims 22-24) have been rejected for being unpatentable over Bernstein (U.S. Patent No. 5,445,581) in view of various cited references. In addition, claims 12, 18 and 25 have also been rejected for being unpatentable over Bernstein in view of various cited references.

In responding to these rejections, it is to be noted that independent claim 1 has been amended as indicated above. With regard to dependent claims 4, 5 and 12, these claims now depend from an independent claim 1 that the Examiner has indicated would be allowable. As such, claims 4, 5 and 12, for the same reasons, should be allowable. Likewise, independent claim 13 has been amended to include the limitations of dependent claims 16, 17 and 19, thereby presenting a claim the Examiner has indicated

would be allowable. Claims 16, 17 and 19 have therefore been canceled. In light of the amendment to independent claim 13, dependent claims 14, 15, 18 and 20, which depend from claim 13, should now also be allowable. Applicant contends the claims for the present invention are patentably distinguished and the rejections under 35 U.S.C. § 103 (a) should be withdrawn.

Further to a telephone interview conducted on October 14, 2003, Applicant respectfully submits a new independent claim 27. The independent claim 27 specifically requires a mechanism for resisting rotation of the second arm, a one-way clutch for engaging the arm and the mechanism, and a sub-mechanism for establishing the magnitude of the resistance. In addition, Applicant submits a new dependent claim 28, which depends from the proposed independent claim 27. Dependent claim 28 has been included to further disclose details of the mechanism for resisting rotation of the arm. Applicant respectfully requests that the Examiner consider claims 27 and 28 in light of a reevaluation of Haaheim with regard to a one-way clutch. Haaheim neither teaches nor anticipates a one-way clutch, nor the cooperation of structure as disclosed in the current invention. Haaheim discloses a friction cable clutch "to provide more or less resistance to the motion of trucks", wherein said trucks are actually moveable foot pads. [Column 4, Lines 65-66; Figs. 1, 3 and 6]. In addition, Haaheim discloses a second "frictional clutch assembly" that ensures "the friction to arm motion [of the handles] is constant in both directions" [Column 5, Lines 2-3]. Applicant believes the present invention is patentably distinguishable from either Haaheim, or Bernstein in view of Haaheim. Applicant appreciates the Examiner's efforts to work diligently towards a proper

resolution of this matter, and believes the proposed independent claim 27, and dependent claim 28, are consistent with the interview discussions and are patentable. As such, Applicant requests that independent claim 27 and dependent claim 28 be allowed.

In conclusion, Applicant respectfully asserts that claims 1, 4, 5, 8-15, 18, 20 and 26-28 are patentable for the reasons set forth above, and that the application is now in a condition for allowance. Accordingly, an early notice of allowance is respectfully requested. The Examiner is requested to call the undersigned at 619-688-1300 for any reason that would advance the instant application to issue.

Dated this 15th day of October, 2003.

Respectfully submitted,



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